

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1.	JASON TYLER SMITH,	)	
		)	
	Plaintiff,	)	
		)	
2.	GEICO GENERAL INSURANCE COMPANY	)	Case No. <u>14-cv-222-JHP-FHM</u>
		)	<i>(Formerly Tulsa County District Court;</i>
		)	<i>Case No. CJ-2014-1526)</i>
	Defendant.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, GEICO General Insurance Company (“GEICO”), hereby removes the above-captioned action from the District Court of Tulsa County, State of Oklahoma, to this Court. Pursuant to LCvR 81.2, a copy of the state court docket sheet as well as all documents filed or served in the state court action are attached hereto as **EXHIBIT 1** (Docket Sheet), **EXHIBIT 2** (Petition) and **EXHIBIT 3** (Summons). At the time of this removal, there are no pending motions in Tulsa County District Court. *See* LCvR 81.2. GEICO has neither received nor filed other pleadings or papers in this case.

The removal of this case to federal court is based on the following:

1. The above-captioned action was commenced by Plaintiff, Jason Tyler Smith (“Plaintiff”), against GEICO in the District Court of Tulsa County, State of Oklahoma (Case No. CJ-2014-1526) on or about April 17, 2014. (*See* Plaintiff’s Petition, **EXHIBIT 2**.) A summons and copy of the Petition were served upon GEICO on or about April 25, 2014.

2. Removal jurisdiction exists pursuant to 28 U.S.C. § 1441(a) on the ground that it is a civil action over which the court has original jurisdiction under 28 U.S.C. § 1332 as Plaintiff claims this matter involves an amount in excess of \$75,000.00, exclusive of interest and costs, and

is between citizens of different states, as set forth below. (*See* Plaintiff's Petition, p.5, ¶ 25, **EXHIBIT 2.**)

3. Upon information and belief, at all times from the filing of the state court action through and including the present, Plaintiff has been a resident and citizen of the State of Oklahoma.

4. At all times since the loss that is the subject of this litigation and all times from the time of the filing of the state court action through and including the present, GEICO has been and is a foreign corporation duly organized and existing under the State of Maryland, with its principal place of business in Maryland. GEICO has never been incorporated in Oklahoma, and has not had its principal place of business in Oklahoma.

5. Plaintiff's Petition asserts causes of action for breach of contract<sup>1</sup> and breach of the duty of good faith, or bad-faith,<sup>2</sup> for events related to an automobile accident occurring on April 17, 2012. Specifically, Plaintiff alleges that he was "injured in a motor vehicle accident due to the negligence of a third-party." (*See* Plaintiff's Petition p.1 ¶ 6, **EXHIBIT 2.**) As a result of the accident, Plaintiff is claiming bodily injury, lost wages, and property damage<sup>3</sup>. (*See* Plaintiff's Petition, p.2, ¶ 8, **EXHIBIT 2.**)

6. Thereafter, Plaintiff submitted a UM claim to GEICO for his damages, but failed to specify the amount of money he sought to recover from GEICO as a result of his UM claim. GEICO denies that it has breached any contract with Plaintiff or has breached its duty of good faith and fair dealing owed to Plaintiff.

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<sup>1</sup>In violation of 12 O.S. § 2008(A)(2), Plaintiff failed to allege the amount of contract damages he is seeking. Instead, Plaintiff states that he "is entitled to a judgment against Defendant GEICO for the personal injuries sustained while covered by such contract, together with attorney fees and costs."

<sup>2</sup>Plaintiff's bad-faith claim sounds in tort and pursuant to 12 O.S. § 2008(A)(2), Plaintiff merely seeks an unspecified amount of damages in excess of \$75,000.00.

<sup>3</sup>It should be noted that under the terms of the UM policy that is germane to this action, no recovery is available for damage to property resulting from an automobile accident.

7. This Notice of Removal is timely filed with this court, pursuant to 28 U.S.C. § 1446(b), because thirty (30) days have not elapsed since this action became removable to this court.

8. Because this is a civil action where the Plaintiff is seeking an amount that exceeds \$75,000, exclusive of interest and costs, and it is between citizens of different states, federal jurisdiction exists under 28 U.S.C. § 1332(a)(1).

9. Removal to this district court is proper under 28 U.S.C. § 116(c).

10. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be served on counsel for Plaintiff, and a copy of the Notice of Removal has been filed with the Clerk of the District Court in and for Tulsa County, State of Oklahoma.

11. At the time of removal, there are no pending motions in the Tulsa County District Court.

WHEREFORE, Defendant, GEICO General Insurance Company, removes this action from the District Court in and for Tulsa County, State of Oklahoma, to the United States District Court for the Northern District of Oklahoma.

Respectfully submitted,

S/ Gerard F. Pignato

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2014, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Daniel Smolen, Esquire  
SMOLEN SMOLEN & ROYTMAN

s/ Gerard F. Pignato

For the Firm